



U.S. Department of Justice

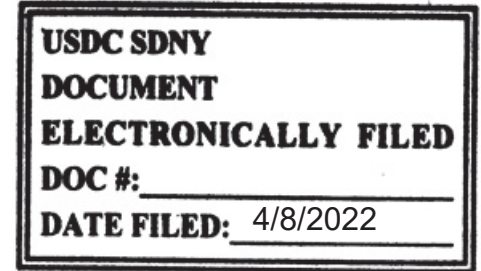
United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

April 8, 2022

By ECF

The Honorable Robert W. Lerhburger
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007



Re: *Guzman v. United States Postal Service, et al.*, No. 21 Civ. 4415 (LAK) (S.D.N.Y.)

Dear Judge Lehrburger:

This Office represents the United States Postal Service (“USPS”) and Raymond Polanco (together, the “Government”) in the above-referenced Federal Tort Claims Act (“FTCA”) action, which arises out of a December 2019 car accident. The Government writes respectfully to request a *sine die* adjournment of the initial pretrial conference currently scheduled to take place on April 18, 2022 at 11:00 A.M. Plaintiff consents to this request, which is the Government’s first.

As set forth in the Government’s letter dated March 18, 2022, *see* Dkt. No. 11, the Government accepted service of the Complaint by email on March 17, 2022. Pursuant to Federal Rule of Civil Procedure 12(a)(2), the Government’s time to answer or otherwise respond to the Complaint will expire on May 16, 2022. At this time, the Government intends to present a motion to dismiss the Complaint for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) on the ground that Plaintiff failed to adequately present his claim to the United States Postal Service before filing this lawsuit.¹ *See, e.g., Collins v. United States*, 996 F.3d 102, 109, 119 (2d Cir. 2021) (describing the FTCA’s presentment requirement, 28 U.S.C. § 2675(a)). The parties agree that it will be premature to begin discovery until the Government’s motion is resolved. As such, we respectfully request that the initial pretrial conference be adjourned until after resolution of the Government’s motion.

¹ Judge Kaplan’s individual rules do not require the Government to file a pre-motion conference letter before making this motion. *See* Judge Kaplan’s Individual Rules at 1.

I thank the Court for its consideration of this request.


Respectfully,

DAMIAN WILLIAMS
United States Attorney

By: /s/ Zachary Bannon
ZACHARY BANNON
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Tel.: (212) 637-2728
Fax: (212) 637-2717
E-mail: zachary.bannon@usdoj.gov

SO ORDERED:

4/8/2022


HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE